

Application No. 10/251,235
Response to Office Action of May 17, 2006

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REMARKS

In the Office Action of May 17, 2006, the Examiner rejected claims 1-39. In the present Amendment, claims 1, 13, 28, 34, 36, 38, and 39 have been amended and claim 7 has been cancelled. Allowance of all pending claims is respectfully requested in view of the following remarks. No new subject matter is being added by this response.

I. REJECTION UNDER 35 U.S.C. §102

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Brothers v. Union Oil Co. of California, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claim 39 stands rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,682,143 to Loosmore ("*Loosmore*"). This rejection is respectfully traversed. Claim 39 has been amended to recite, in part, that the wireless access point includes "three or more RFID antennas" and that "the RFID receiver is configured to send interrogation signals from each of the three or more antennas to locate a mobile unit using triangulation." Support for this amendment can be found, for example, at paragraph 34 of the specification. These limitations are not found in *Loosmore*. For at least this reason, claim 39 is in condition for allowance.

II. REJECTION UNDER 35 U.S.C. §103

To establish a prima facie case of obviousness under 35 U.S.C. §103, three requirements must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. M.P.E.P. 2143.

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A. Claims 1, 3-7, 12-13, 15-18, 23-26 and 28-38.

Claims 1, 3-7, 12-13, 15-18, 23-26 and 28-38 stand rejected under 35 U.S.C. §103(a) as being unpatentable over PCT Publication WO 02/096032 to Grego ("*Grego*") and U.S. Patent No. 6,892,052 to Kotola ("*Kotola*").

Claim 1, as amended, recites, in part that "the RFID transceiver is further configured to receive predesignated data without interrogating the mobile device to reduce demand on the wireless transceiver." Support for this amendment can be found, for example, at paragraph 40 of the present invention. Additionally, this limitation was also presented, in part, in claim 7, now cancelled. This limitation is not disclosed by the *Grego/Kotola* combination. Neither, *Grego* nor *Kotola* disclose, teach or suggest such a limitation. *Grego* only discloses a mobile unit that can communicate over a bluetooth channel if the main communication channel is busy. *Kotola* discloses, at most, that an access point can interrogate a RFID tag to get certain data. Combining the two cited references fails to compensate for their individual shortcomings. Thus, claim 1 is in condition for allowance.

Claims 3-6 and 12 depend from allowable claim 1. For at least this reason, claims 3-6 and 12 are in condition for allowance. Claim 7 has been cancelled, rendering this rejection moot.

Claim 13, as amended, recites, in part, "the mobile unit mobile transceiver is configured to send data to a first access point and the mobile RFID transceiver is configured to send data to a second access point." This limitation is not disclosed by the *Grego/Kotola* combination. Support for this amendment can be found at paragraph 39 of the present invention. *Grego* at most discloses a mobile unit that has both a wireless transceiver and a bluetooth transceiver that can communicate using one or the other based on the availability of a single access point. *Kotola* discloses a mobile unit that has an RFID tag and an RFID receiver. In *Kotola*, the RFID transceiver is used only to integrate RFID tags and not communicate with an access point. See column 7, line 66 to column 8, line 12 of *Kotola*. A combination of *Grego* and *Kotola*, would at most allow the mobile unit to communicate first using the wireless transceiver and then by using the RFID transceiver as a backup when communication via the wireless transceiver was unavailable and not to communicate with two access points at one time. For at least this reason, claim 13 is in condition for allowance.

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Claims 15-18 and 23-26 depend from allowable claim 13. For at least this reason, claims 15-18 and 23-26 are in condition for allowance.

Claim 28 has been amended, to recite, in part, "the mobile unit mobile transceiver is configured to send data to a first access point and the mobile RFID transceiver is configured to send data to a second access point at the same time." As discussed in conjunction with claim 13, the proposed *Grego/Kotola* combination fails to disclose this limitation. For at least this reason, claim 28 is in condition for allowance.

Claims 29-33 depend from allowable claim 28. For at least this reason, claims 29-33 are in condition for allowance.

Claim 34 has been amended, to recite, in part, "checking the availability of a wireless transceiver of the wireless access point by using a probe request." While the proposed *Grego/Kotola* combination may discuss the use of a secondary channel for communicating when the first is busy, the proposed combination fails to disclose the use of a probe request for determining wireless transceiver availability. For at least this reason, claim 34 is in condition for allowance. For at least this reason, claims 35-37 are in condition for allowance.

Claim 38 has been amended, to recite, in part, "receiving a probe request from the mobile unit to determine availability." As discussed in conjunction with claim 34, while the proposed *Grego/Kotola* combination may discuss the use of a secondary channel for communicating when the first channel is busy, the proposed combination fails to disclose the use of a probe request for determining wireless transceiver availability. For at least this reason, claim 34 is in condition for allowance.

B. Claims 2 and 14.

Claims 2 and 14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Grego* in view of *Kotola* and further in view of U.S. Patent Publication No. 20040236967 to Korcharz ("*Korcharz*").

Claim 2 depends from claim 1 and claim 14 depends from claim 13. Claims 1 and 13 are in condition for allowance. For at least this reason, claims 2 and 14 are in condition for allowance.

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C. Claims 8-11, 19-22, and 27.

Claims 8-11, 19-22, and 27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Grego* in view of *Kotola* and further in view of U.S. Patent Publication 20030007473 to Strong ("*Strong*").

Claims 8-11 depend from allowable claim 1. Claims 19-22 and 27 depend from allowable claim 13. For at least these reasons, claims 8-11, 19-22, and 27 are in condition for allowance.

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III. CONCLUSION

For the foregoing reasons, the present application is believed to be in condition for allowance and favorable action is respectfully requested. The Examiner is invited to telephone the undersigned at the telephone number listed below if it would in any way advance prosecution of this case.

While no other fees are believed due, the applicant hereby requests that any other required fee to maintain pendency of this case, except for the Issue Fee, be charged to Deposit Account 50-2091.

Respectfully submitted,
INGRASSIA FISHER & LORENZ

Dated: August 17, 2006

By



Daniel R. Pote
Reg. No. 43,011
(480) 385-5060

Customer No. 29906